



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2017-0535; FRL-9981-46-Region 5]

**Air Plan Approval; Indiana; Air Quality Standards Update for the
2015 Ozone Standard**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a September 7, 2017, request by the Indiana Department of Environmental Management (IDEM) to revise the Indiana state implementation plan (SIP) for ozone. IDEM revised its ozone standard in order to be consistent with EPA's 2015 revisions to the 8-hour national ambient air quality standards (NAAQS). IDEM also revised references to the monitoring test methods in its rules to be consistent with the current EPA test methods. EPA is also approving administrative revisions to regulations addressing other ambient air quality standards.

DATES: This final rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2017-0535. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available,

i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through www.regulations.gov or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Matt Rau, Environmental Engineer, at (312) 886-6524 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6524, rau.matthew@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. Background
- II. Public Comment
- III. What Action is EPA Taking?
- IV. Incorporation by Reference.

V. Statutory and Executive Order Reviews.

I. Background

On October 26, 2015 (80 FR 65291), EPA revised the primary and secondary ozone NAAQS from 0.075 to 0.070 parts per million (ppm), daily maximum 8-hour concentration, codified at 40 CFR 50.19. EPA also revised the monitoring test methods for ozone, which are codified at 40 CFR part 50, appendices D and U, and at 40 CFR part 53.

On April 11, 2017, IDEM revised its ambient air quality primary and secondary standards for ozone to be consistent with EPA's 2015 revision, and codified that revision at 326 Indiana Administrative Code (IAC) 1-3-4, Ambient Air Quality Standards. IDEM revised 326 IAC 1-3-4(4)(B) to update its references to the Federal monitoring test methods. Indiana also made administrative revisions throughout 326 IAC 1-3-4 for ambient air quality standards other than ozone. This includes changing "shall represent" to "represents" and "shall" to "must."

On September 7, 2017, IDEM submitted the revisions of 326 IAC 1-3-4 to EPA and requested their approval into the Indiana SIP. EPA proposed approving 326 IAC 1-3-4, as revised, on May 2, 2018 (83 FR 19194).

II. Public Comment

A public comment period was provided in the May 2, 2018, (83 FR 19194) proposed rule. The comment period closed on June

1, 2018. Two comments were submitted during the comment period. Both comments raised issues outside the scope of this rulemaking.

III. What Action is EPA Taking?

EPA is approving revisions related to Indiana's ambient air quality standards in 326 IAC 1-3-4 into the Indiana SIP. The revisions to 326 IAC 1-3-4 include making IDEM's ozone standard consistent with the 2015 8-hour ozone NAAQS, as codified at 40 CFR part 50, and making IDEM's monitoring test methods for ozone consistent with the methods codified at 40 CFR part 50 and 40 CFR part 53. Further, administrative revisions were made to IDEM's other ambient air quality standards in 326 IAC 1-3-4. IDEM submitted the SIP revision request on September 7, 2017.

IV. Incorporation by Reference.

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Indiana Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available through www.regulations.gov, and at the EPA Region 5 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information). Therefore, these materials have been approved by

EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.¹

V. Statutory and Executive Order Reviews.

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;

¹ 62 FR 27968 (May 22, 1997).

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or

environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b) (1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**.

Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b) (2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: July 17, 2018.

Cathy Stepp,
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 52.770, the table in paragraph (c) is amended by revising the entry for “1-3-4” under “Article 1. General Provisions” “Rule 3. Ambient Air Quality Standards” to read as follows:

§ 52.770 Identification of plan.

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(c) * * *

EPA— APPROVED INDIANA REGULATIONS

Indiana Citation	Subject	Indiana Effective Date	EPA approval date	Notes
Article 1. General Provisions				
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Rule 3. Ambient Air Quality Standards				
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1-3-4	Ambient air quality standards	8/11/2017	<u>[insert date of publication in the Federal Register]</u> , [Insert Federal Register citation]	
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